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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,316	10/22/2003	R. Duane Ware	MTU-16504/01	6399

25006 7590 05/21/2004

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EXAMINER

WHITE, RODNEY BARNETT

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 05/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/691,316

Applicant(s)

WARE ET AL.

Examiner

Rodney B. White

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26-33 is/are allowed.
- 6) ☒ Claim(s) 1-6, 12-24 and 34-43 is/are rejected.
- 7) ☒ Claim(s) 7-11 and 25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/22/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 12-17, 20-24, 34, and 36-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Tolleson (U.S. Patent No. 5,039,163)

Tolleson teaches a chair, the chair comprising: a seat support assembly, the seat support assembly including a seat support and a seat support frame including at least one leg assembly, the seat support frame supporting the seat support; and a back support assembly, including a back frame and a back support, the back frame including a back frame member, the back frame member being a single curved member (Fig. 5) having a central portion lying substantially in the plane of the back support, a left end portion, and a right end portion, the left and right end portions being substantially in the plane of the seat support, wherein the seat support frame and the back frame are flexibly interconnected by a left spring and a right spring 50, each spring being formed from an elongated non-extensible member, wherein the left spring is connected to the left end portion of the back frame member, and the right spring is connected to the right end portion of the back frame member, wherein the left spring engages with a back left

spring channel 52 or 54 connected to the left end portion of the back frame member and the back right spring channel 52 or 54 connected to the right end portion of the spring engages with a back frame member, wherein the seat support frame includes a U-shaped member (Fig. 1) having a left arm, a right arm, and a central portion, the U-shaped member lying substantially in the plane of the seat support, the left arm being substantially parallel to the left end portion of the back frame member, the right arm being substantially parallel to the right end portion of the back frame member, wherein the left arm is substantially in register with the left end portion of the back frame member, and the right arm is substantially in register with the right end portion of the back frame member, wherein the left pairing is connected to the left arm, and the right spring is connected to the right arm, wherein the left spring engages with a front left spring channel 52 or 54 attached to the left arm and a back left spring channel 52 or 54 connected to the left end portion of the back frame member, and the right spring engages with a front right spring channel 144 attached to the right arm and a back right spring channel 146 connected to the right end portion of the back frame member, the springs made of fiberglass reinforced epoxy (column 4, lines 48-51) the spring having a substantially rectangular cross-section, the springs flexing within in a plane parallel to the shorter sides of the substantially rectangular cross-section.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tolleson in view of Barile (U.S. Patent No. 5,762,396) and Swy (U.S. Patent No. 6,174,029).

Tolleson teaches the structure substantially as claimed but does not teach the shape of the backrest as described in claims 18-19. However, Barile and Swy teach such a shape to be old. It would have been obvious and well within the level of ordinary skill in the art to modify the backrest frame member, as taught by Tolleson, to include such a shape, as taught by Barile and Swy, since such a shape is a matter of aesthetics and design choice and depends on the needs of manufacturer and consumer.

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tolleson in view of Barile (U.S. Patent No. 5,762,396).

Tolleson teaches the structure substantially as claimed including left and right strengthening bars connecting the front left and right leg portions to the back left and right leg portions but does not teach the front and back lateral bars. However, Barile teaches such front and back lateral bars to be old. It would have been obvious and well within the level of ordinary skill in the art to modify the backrest leg members, as taught by Tolleson, to include such front and back lateral bars, as taught by Barile, since such a construction would provide for a sturdier chair.

Claims 7-11 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 26-33 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: Prior art does not teach the J-shaped or U-shaped cross-sectional profile of the spring channels as defined in claims 7 and 26, the left and right springs being parallel to the left and right end portions of the back frame members, as defined in claim 9, the first spring is substantially parallel to the first seat support frame portion, and laterally offset from the first seat support frame portion., as defined in claim 25.

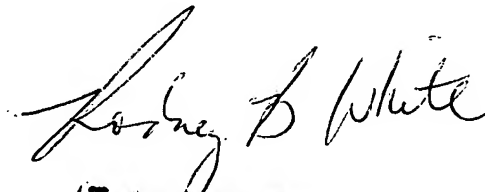
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney B. White whose telephone number is (703) 308-2276. The examiner can normally be reached on 5:30 AM-3:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rodney B. White,  
Patent Examiner  
Art Unit 3636  
May 17, 2004



Rodney B. White  
Patent Examiner